

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

WAYNE DESHA VAUGHN,

Defendant-Appellant.

UNPUBLISHED

June 12, 1998

No. 199973, 199974

Ottawa Circuit Court

LC No. 94-018008 FH

94-018010 FH

Before: Wahls, P.J., and Jansen and Gage, JJ.

MEMORANDUM.

In Docket No. 199973, defendant pleaded guilty to conspiring to deliver less than 50 grams of cocaine, MCL 333.7401(1) and (2)(a)(iv); MSA 14.15(7401)(1) and (2)(a)(iv), MCL 750.157a; MSA 28.354(1), and was sentenced to four to twenty years' imprisonment. In Docket No. 199974, defendant pleaded guilty to delivery of less than 50 grams of cocaine, MCL 333.7401(1) and (2)(a)(iv); MSA 14.15(7401)(1) and (2)(a)(iv), and was sentenced to five to twenty years' imprisonment. These sentences are to be served consecutively. Defendant appeals as of right. We affirm.

Defendant argues that he is entitled to resentencing in Docket No. 199974 because he was sentenced based upon an offense to which he did not plead. *People v Corlin*, 95 Mich App 740, 743; 291 NW2d 188 (1980). Specifically, defendant asserts that he pleaded guilty to delivering cocaine on April 23, 1994 at 137 E. 15th Street, Holland, Michigan, but was sentenced for delivering cocaine on April 29, 1994 on Pine Street, in Holland.

The information indicates that the delivery charged in Docket No. 199974 occurred on April 29, 1994, in Holland. Defendant supplied an adequate factual basis for his plea by admitting to delivering what he knew to be a rock of crack cocaine in Holland on April 29, 1994. *People v Wolfe*, 440 Mich 508, 516-517; 489 NW2d 748 (1992), modified 441 Mich 1201 (1992); *People v Fisher*, 220 Mich App 133, 145; 559 NW2d 318 (1996); *People v Thew*, 201 Mich App 78, 85; 506 NW2d 547 (1993). However, while the trial court was attempting to establish venue by establishing that the delivery occurred in that portion of Holland that is located in Ottawa County, *Fisher, supra*, and not in that portion located in Allegan County, defendant mistakenly informed the court that the

delivery occurred at 137 E. 15th Street. The unchallenged information contained in the presentence investigation report [PSIR] indicates that the delivery occurred in a moving vehicle traveling on Pine Street in Holland and that defendant was dropped off at 137 E. 15th Street after the delivery occurred.

We conclude that defendant was not sentenced based on an offense to which he did not plead where time is not of the essence for this offense, MCL 767.51; MSA 28.991; *People v Hawkins*, 17 Mich App 179; 169 NW2d 189 (1969), the actual address of the situs of the offense was not necessary to establish venue, *Fisher, supra*, where the situs of the offense was not an element of the offense, *Wolfe, supra*, and where defendant supplied an adequate factual basis to support a finding that he committed the offense charged in the information, *Wolfe, supra*. We also conclude that defendant was sentenced based on accurate information where the circumstances of the offense for which defendant was charged and to which he pleaded guilty were accurately detailed in the PSIR. *People v Miles*, 454 Mich 90, 96-97; 559 NW2d 299 (1997).

Affirmed.

/s/ Myron H. Wahls

/s/ Kathleen Jansen

/s/ Hilda R. Gage